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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2023

MICHELLE ROHDE
P. O. Box 552
Carmichael, CA 95609

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respiratory Care Practitioner License No.1296

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory
Care Board of California. She brought this action solely in her official capacity and is represented
in this matter by Bill Lockyer, Attorney General of the State of California, by Thomas P. Reilly,
Deputy Attorney General.

2. Respondent Michelle Rohde (Respondent) is representing herself in this
matter.

3. On April 19, 1985, the Respiratory Care Board of California issued

1 Respiratory Care Practitioner License No. 1296 to Michelle A. Rohde (Respondent). The license
2 was in full force and effect at all times relevant to the charges brought in Accusation No. R-2023,
3 but expired on April 30, 2006 and has not yet been renewed.

4 JURISDICTION

5 4. Accusation No. R-2023 has been filed before the Respiratory Care Board
6 (Board) , Department of Consumer Affairs, and is currently pending against respondent. The
7 Accusation and all other statutorily required documents have been properly served on respondent.
8 Respondent has not filed a notice of defense contesting the accusation. Instead, she enters into
9 this stipulated settlement and disciplinary order in order to resolve this matter as quickly as
10 possible. A copy of Accusation No. R-2023 is attached as Exhibit A and incorporated here by
11 reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read and understands the charges and allegations
14 in Accusation No. R-2023. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
19 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas
20 to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in
27 Accusation No. R-2023.

28 9. Respondent agrees that her respiratory care practitioner license is subject

1 to discipline and she agrees to be bound by the Respiratory Care Board (Board) 's imposition of
2 discipline as set forth in the Disciplinary Order below.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Respiratory Care Board.
5 Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory
6 Care Board of California may communicate directly with the Board regarding this stipulation and
7 settlement, without notice to or participation by respondent or her counsel. By signing the
8 stipulation, respondent understands and agrees that she may not withdraw her agreement or seek
9 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
10 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
11 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
12 action between the parties, and the Board shall not be disqualified from further action by having
13 considered this matter.

14 11. The parties understand and agree that facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
16 force and effect as the originals.

17 12. In consideration of the foregoing admissions and stipulations, the parties
18 agree that the Board may, without further notice or formal proceeding, issue and enter the
19 following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 1296
22 issued to respondent Michelle Rohde (Respondent) is revoked. However, the revocation is
23 stayed and respondent is placed on probation for five (5) years on the following terms and
24 conditions.

25 1. WORK SCHEDULES Respondent shall be required to submit to the
26 probation monitor work schedules on a weekly/monthly basis for the length of probation.
27 Respondent shall ensure the Board has a copy of her current work schedule at all times for each
28 place of employment.

1 Failure to submit current work schedules on a continuous basis shall constitute a
2 violation of probation and shall result in the filing of an accusation and/or a petition to revoke
3 probation against respondent's respiratory care practitioner license.

4 2. BIOLOGICAL FLUID TESTING Respondent, at her expense, shall
5 participate in random testing, including, but not limited to, biological fluid testing (i.e. urine,
6 blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the
7 Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire
8 probation period. The frequency and location of testing will be determined by the Board.

9 At all times, respondent shall fully cooperate with the Board or any of its
10 representatives, and shall, when directed, submit to such tests and samples for the detection of
11 alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances.

12 If respondent is unable to provide a specimen in a reasonable amount of time from
13 the request, while at the work site, she understands that any Board representative may request
14 from the supervisor, manager or director on duty to observe her in a manner that does not
15 interrupt or jeopardize patient care in any manner until such time as she provides a specimen
16 acceptable to the Board.

17 Failure to submit to testing or appear as requested by any Board representative for
18 testing, as directed shall constitute a violation of probation and shall result in the filing of an
19 accusation and/or a petition to revoke probation against respondent's respiratory care practitioner
20 license.

21 In the event respondent is required to submit to drug testing by her employer, she
22 shall execute a release authorizing her employer to divulge this information and all documents
23 relating to drug testing to the Board. The employer shall immediately report any positive tests to
24 the Board and any positive result that is not the result of a substance legally prescribed by a
25 doctor shall be deemed a violation of probation and a basis for further disciplinary action.

26 3. ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING
27 SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol, any
28 and all other mood altering drugs, substances and their associated paraphernalia, except when the

1 drugs are lawfully prescribed by a licensed practitioner as part of a documented medical
2 treatment.

3 Respondent shall execute a release authorizing the release of pharmacy and
4 prescribing records as well as physical and mental health records. Respondent shall also provide
5 information of treating physicians, counselors or any other treating professionals as requested by
6 the Board.

7 Respondent shall ensure that she is not in the presence of or in the same physical
8 location as individuals who are using illegal substances, even if respondent is not personally
9 ingesting the drug(s).

10 Any positive result that registers over the established laboratory cutoff level shall
11 constitute a violation of probation and shall result in the filing of an accusation and/or a petition to
12 revoke probation against respondent's respiratory care practitioner license.

13 Respondent also understands and agrees that any positive result that registers over
14 the established laboratory cutoff level shall be reported to each of Respondent's employers.

15 4. RESTRICTION OF PRACTICE FROM SUP/MAN, HOME CARE, AND
16 REGISTRY Respondent may not be employed or function as a member of a respiratory care
17 management or supervisory staff during the entire length of probation. This includes lead
18 functions. AND respondent is prohibited from working in home care unless it is under direct
19 supervision and personal observation. AND respondent is prohibited from working for a registry.

20 5. SUPERVISOR QUARTERLY REPORTS OF PERFORMANCE
21 Supervisor Quarterly Reports of Performance are due for each year of probation and the entire
22 length of probation from each employer, as follows:

23 For the period covering January 1st through March 31st, reports are to be
24 completed and submitted between April 1st and April 7th. For the period covering April 1st
25 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
26 the period covering July 1st through September 30th, reports are to be completed and submitted
27 between October 1st and October 7th. For the period covering October 1st through December 31st,
28 reports are to be completed and submitted between January 1st and January 7th.

1 Respondent is ultimately responsible for ensuring her employer(s) submits
2 complete and timely reports. Failure to ensure each employer submits complete and timely
3 reports shall constitute a violation of probation.

4 6. ALCOHOL AND DRUG TREATMENT

5 Respondent at her expense shall successfully complete a California treatment
6 program approved by the Board within the first year of probation. The program director,
7 psychiatrist or psychologist shall confirm that respondent has complied with the requirement of
8 this decision and shall notify the Board immediately if he/she believes the respondent cannot safely
9 practice. Respondent shall execute a release authorizing divulgence of this information to the
10 Board.

11 Respondent shall inform the program director, psychiatrist or psychologist, of her
12 probationary status with the Board, and shall cause that individual to submit monthly reports to
13 the Board providing information concerning respondent's progress and prognosis. Such reports
14 shall include results of biological fluid testing. Positive results shall be reported immediately to
15 the board and shall be used in administrative discipline.

16 7. ATTEND SUBSTANCE ABUSE RECOVERY RELAPSE
17 PREVENTION AND SUPPORT GROUPS As of the effective date of this decision, the
18 respondent shall begin regular attendance at a recognized and established substance abuse
19 recovery support group in California (e.g., Alcoholics Anonymous). Respondent must attend at
20 least 2 group meetings per week. Respondent shall continue regular attendance and submit signed
21 and dated documentation confirming attendance with each quarterly report for the duration of
22 probation.

23 8. OBEY ALL LAWS Respondent shall obey all laws, whether federal, state,
24 or local. Respondent shall also obey all regulations governing the practice of respiratory care in
25 California.

26 Respondent shall notify the Board in writing within 14 days of any incident
27 resulting in her arrest, or charges filed against, or a citation issued against Respondent.

28 9. QUARTERLY REPORTS Respondent shall file quarterly reports of

1 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned
2 by the Board. Omission or falsification in any manner of any information on these reports shall
3 constitute a violation of probation and shall result in the filing of an accusation and/or a petition to
4 revoke probation against respondent's respiratory care practitioner license.

5 Quarterly report forms will be provided by the Board. Respondent is responsible
6 for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each
7 year of probation and the entire length of probation as follows:

8 For the period covering January 1st through March 31st, reports are to be
9 completed and submitted between April 1st and April 7th. For the period covering April 1st
10 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
11 the period covering July 1st through September 30th, reports are to be completed and submitted
12 between October 1st and October 7th. For the period covering October 1st through December 31st,
13 reports are to be completed and submitted between January 1st and January 7th.

14 Failure to submit complete and timely reports shall constitute a violation of
15 probation.

16 10. PROBATION MONITORING PROGRAM Respondent shall comply with
17 requirements of the Board appointed probation monitoring program, and shall, upon reasonable
18 request, report to or appear at a local venue as directed.

19 Respondent shall claim all certified mail issued by the Board, respond to all notices
20 of reasonable requests timely, and submit Annual Reports, Identification Update reports or other
21 reports similar in nature, as requested and directed by the Board or its representative.

22 Respondent is encouraged to contact the Board's Probation Program at any time
23 she has a question or concern regarding her terms and conditions of probation.

24 Failure to appear for any scheduled meeting or examination, or cooperate with the
25 requirements of the program, including timely submission of requested information, shall
26 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
27 revoke probation against respondent's respiratory care practitioner license.

28 11. PROBATION MONITORING COSTS All costs incurred for probation

1 monitoring during the entire probation shall be paid by the respondent. The monthly cost may be
2 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
3 conditions may also cause this amount to be increased.

4 All payments for costs are to be sent directly to the Respiratory Care Board and
5 must be received by the date(s) specified. (Periods of tolling will not toll the probation
6 monitoring costs incurred.)

7 If Respondent is unable to submit costs for any month, she shall be required
8 instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will
9 be able to submit the costs including payment amount(s). Supporting documentation and
10 evidence of why the respondent is unable to make such payment(s) must accompany this
11 submission.

12 Respondent understands that failure to submit costs timely is a violation of
13 probation and submission of evidence demonstrating financial hardship does not preclude the
14 Board from pursuing further disciplinary action. However, respondent understands providing
15 evidence and supporting documentation of financial hardship may delay further disciplinary action.

16 In addition to any other disciplinary action taken by the Board, an unrestricted
17 license will not be issued at the end of the probationary period and the respiratory care
18 practitioner license will not be renewed, until such time all probation monitoring costs have been
19 paid.

20 The filing of bankruptcy by respondent shall not relieve her of her responsibility to
21 reimburse the Board for costs incurred.

22 12. EMPLOYMENT REQUIREMENT Respondent shall be employed a
23 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her
24 probation period.

25 Respondent may substitute successful completion of a minimum of thirty (30)
26 additional continuing education hours, beyond that which is required for license renewal, for each
27 8 months of employment required. Respondent shall submit proof to the Board of successful
28 completion of all continuing education requirements. Respondent is responsible for paying all

1 costs associated with fulfilling this term and condition of probation.

2 13. NOTICE TO EMPLOYER Respondent shall be required to inform her
3 employer, and each subsequent employer during the probation period, of the discipline imposed
4 by this decision by providing her supervisor and director and all subsequent supervisors and
5 directors with a copy of the decision and order, and the Accusation in this matter prior to the
6 beginning of or returning to employment or within 14 days from each change in a supervisor or
7 director.

8 The employer will then inform the Board, in writing, that it is aware of the
9 discipline, on forms to be provided to the respondent. Respondent is responsible for contacting
10 the Board to obtain additional forms, if needed. All reports completed by the employer must be
11 submitted from the employer directly to the Board.

12 Respondent shall execute a release authorizing the Board or any of its
13 representatives to review and obtain copies of all employment records and discuss and inquire of
14 the probationary status with any of Respondent's supervisors or directors.

15 14. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall
16 notify the Board, and appointed probation monitor, in writing, of any and all changes of
17 employment, location, and address within 14 days of such change. This includes, but is not
18 limited to, applying for employment, termination or resignation from employment, change in
19 employment status, change in supervisors, administrators or directors.

20 Respondent shall also notify her probation monitor AND the Board IN WRITING
21 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for
22 mailing purposes, however the respondent must also provide her physical residence address as
23 well.

24 15. COST RECOVERY Respondent shall pay to the Board a sum not to
25 exceed the costs of the investigation and prosecution of this case. That sum shall be \$4,671.50
26 (four thousand six hundred seventy one dollars and fifty cents) and shall be paid in full directly to
27 the Board, in equal quarterly payments, within 36 months from the effective date of this decision.
28 Cost recovery will not be tolled.

1 If respondent is unable to submit costs timely, she shall be required instead to
2 submit an explanation of why she is unable to submit these costs in part or in entirety, and the
3 date(s) she will be able to submit the costs including payment amount(s). Supporting
4 documentation and evidence of why the respondent is unable to make such payment(s) must
5 accompany this submission.

6 Respondent understands that failure to submit costs timely is a violation of
7 probation, and submission of evidence demonstrating financial hardship does not preclude the
8 Board from pursuing further disciplinary action. However, respondent understands that providing
9 evidence and supporting documentation of financial hardship may delay further disciplinary action.

10 Consideration to financial hardship will not be given should respondent violate this
11 term and condition, unless an unexpected AND unavoidable hardship is established from the date
12 of this order to the date payment(s) is due.

13 The filing of bankruptcy by the respondent shall not relieve her of her responsibility
14 to reimburse the Board for these costs.

15 16. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods
16 of residency or practice outside California, whether the periods of residency or practice are
17 temporary or permanent, will toll the probation period, but will not toll the cost recovery
18 requirement, nor the probation monitoring costs incurred. Travel out of California for more than
19 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the
20 Board, in writing, within 14 days, upon her return to California and prior to the commencement of
21 any employment where representation as a respiratory care practitioner is/was provided.

22 17. VALID LICENSE STATUS Respondent shall maintain a current, active
23 and valid license for the length of the probation period. Failure to pay all fees and meet
24 Continuing Education requirements prior to her license expiration date shall constitute a violation
25 of probation.

26 18. VIOLATION OF PROBATION If respondent violates any term of the
27 probation in any respect, the Board, after giving respondent notice and the opportunity to be
28 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to

1 revoke probation is filed against respondent during probation, the Board shall have continuing
2 jurisdiction and the period of probation shall be extended until the matter is final. No petition for
3 modification of penalty shall be considered while there is an accusation or petition to revoke
4 probation or other penalty pending against Respondent.

5 19. COMPLETION OF PROBATION Upon successful completion of
6 probation, respondent's license shall be fully restored.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my respiratory care practitioner license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: May 12, 2006

Original signed by:
MICHELLE ROHDE
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: May 24, 2006

BILL LOCKYER, Attorney General
of the State of California

Original signed by:
THOMAS P. REILLY
Deputy Attorney General
Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2023

MICHELLE ROHDE
P. O. Box 552
Carmichael, CA 95609

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on July 17, 2006.

It is so ORDERED July 6, 2006.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA